

**SMALL CLAIMS COUNTERCLAIM**

**IN THE HAMILTON SUPERIOR COURT NO. 5**

One Hamilton County Square, Suite 297  
Noblesville, Indiana 46060-2231  
Telephone: (317) 776-8260

\_\_\_\_\_  
Counterclaimant (**original defendant**)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone number

vs.

**CAUSE NO. 29D05-**\_\_\_\_\_

Attorney (optional) \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
Counterclaim defendant (**original plaintiff**)

\_\_\_\_\_  
Address

City\_\_\_\_\_ State \_\_\_\_\_ Zip\_\_\_\_\_

Telephone \_\_\_\_\_ Attorney No. \_\_\_\_\_

\_\_\_\_\_  
City, State, Zip

**NOTICE OF COUNTERCLAIM**

TO THE COUNTERCLAIM DEFENDANT (**original plaintiff**):

You have been counterclaimed against by the original defendant. This counterclaim, and your original claim, will be heard in the Hamilton Superior Court No. 5 on the same date, time, and place as your original claim. The counterclaimant may be given a default judgment against you if you fail to appear at that time.

The counterclaimant's claim is for: \_\_\_\_ Account or Note (copy attached) \_\_\_\_ Damages \_\_\_\_ Wages

\_\_\_\_ Set-off \_\_\_\_ Other (specify) \_\_\_\_\_

A brief statement of the nature of the counterclaimant's claim against you is as follows: \_\_\_\_\_

\_\_\_\_\_

—

\_\_\_\_\_

—

\_\_\_\_\_

—

\_\_\_\_\_

—

\_\_\_\_\_

—

The counterclaimant demands judgment against the original plaintiff for \$\_\_\_\_\_ plus interest from

\_\_\_\_\_, at the rate of \_\_\_\_\_% and the court costs of this action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Counterclaimant (or attorney)

### **IMPORTANT INFORMATION CONCERNING THIS CLAIM**

1. The Plaintiff or the Defendant may represent themselves individually or be represented by an attorney. A Small Claims Litigant's Handbook is available at the offices of the Clerk or Court for each party's benefit. The Plaintiff and Defendant should bring to trial all documents in their possession or under their control concerning this claim. The Court usually does not conduct a contested trial on the first hearing date except in a request for eviction or, if time permits and both parties are prepared to go forward.
2. A default judgment may be entered against the Defendant if he or she fails to appear for the first hearing or the trial, and if the Plaintiff fails to appear, the case will be dismissed (but may be refiled once more).
3. If the Defendant does not wish to dispute the Plaintiff's claim, the Defendant still may wish to appear to allow the Court to establish the method for paying the judgment.
4. Any request for a continuance of the first hearing or trial date by either party should be filed with the Court at least 5 days before the hearing date. Forms requesting a continuance are available at the Court's office. The party requesting a continuance must contact the other party regarding the request.
5. The Defendant must file with the Clerk and provide the Plaintiff with a written statement of any Counterclaim against the Plaintiff at least 7 calendar days before the trial. Forms are available for this purpose.
6. If a settlement of this claim is made out of Court, it should be in writing and signed by the Plaintiff and Defendant. Settlement forms may be obtained from the Court. The settlement shall be filed with the Court and will be entered in the Small Claims Docket and shall have the same effect as a judgment of the Court.
7. The filing of a Small Claim waives the Plaintiff's right to trial by jury. The Defendant may, no later than 10 days following service of the Notice of Claim, make a demand for a trial by jury in writing, in accordance with Indiana Code 33-5-2-7. If a jury trial request has been granted, it may not be withdrawn without consent of both parties. Both parties should then obtain attorneys. The Defendant must pay a \$70 fee at the Clerk's office within 10 days after the jury request has been granted, otherwise, the Defendant gives up the right to a jury trial.

### **SHERIFF'S RETURN OF COUNTERCLAIM**

I hereby certify that on the below date:

\_\_\_\_\_ I served this Counterclaim by delivering a copy to the Counterclaim Defendant.

\_\_\_\_\_ I served this Counterclaim by leaving a copy:

\_\_\_\_\_ at the dwelling or usual place of abode of Counterclaim Defendant;

\_\_\_\_\_ with a person of suitable age and discretion residing therein, namely \_\_\_\_\_

\_\_\_\_\_ and by mailing a copy of the Notice of Claim to the Defendant, by first class mail, to the address listed on

the Counterclaim (date copy mailed if Counterclaim of Claim because \_\_\_\_\_)

\_\_\_\_\_.

\_\_\_\_\_ I was unable to serve this Counterclaim because \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Sheriff of Hamilton County, Indiana

By: \_\_\_\_\_

rev. 12/00 ctrclm